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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,733	01/21/2004	W. Brent Scales	LUM0001PA/38066.1	1692
23368 7590 10/02/2008 DINSMORE & SHOHL LLP ONE DAYTON CENTRE, ONE SOUTH MAIN STREET SUITE 1300 DAYTON, OH 45402-2023				
EXAMINER ALAM, FAYYAZ				
ART UNIT 2618		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/761,733

Applicant(s)

SEALES ET AL.

Examiner

FAYYAZ ALAM

Art Unit

2618

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 48-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 48-71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S508)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of claims 1-12 and 48-71 in the reply filed on 7/9/2008 is acknowledged.

Information Disclosure Statement

The information disclosure statement submitted on 1/20/2006 been considered by the Examiner and made of record in the application file.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 48-55 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim discloses a carrier wave.

Claims 56-71 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim discloses media that is not defined and limited and therefore, includes non-statutory subject matter..

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites the limitation "the data exchange stream" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 6, 7, 12, 48, 56, and 64 are rejected under 35 U.S.C. 102(e) as being anticipated by **Nowlin et al. (USPN 2003/0092437)**.

Consider **claim 1, 6, 7, 12, 48, 56, and 64**, Nowlin discloses a remote data processing and storage device for wireless, two-way data transfer communication with one or more data exchange infrastructure devices comprising; a housing; a power supply disposed within said housing; a microprocessor in electrical communication with said power supply and disposed within said housing; a data memory storage unit in electrical communication with said power supply and disposed within said housing; a transmitter and receiver assembly in electrical communication with said microprocessor

and said power supply, said transmitter and receiver assembly being disposed within said housing for electronic wireless communication with one or more data exchange infrastructure devices; and a virtual interface preprogrammed in said microprocessor with a protocol for seeking, detecting and establishing two-way data exchange communication with at least one data exchange infrastructure device (see figs. 2,3,5; [0021,0022;0030-0033;0041-0043]).

Consider **claim 6** as applied to respective claims, Nowlin discloses remote data processing and storage device is configured for operation in an environment including two or more remote data processing and storage devices (see figs. 3a-e).

Consider **claim 7** as applied to respective claims, Nowlin discloses remote data processing and storage device is configured to accept signals from multiple data exchange infrastructure devices (see figs. 3a-e; [0043]).

Consider **claim 12** as applied to respective claims, Nowlin discloses said transmitter and receiver assembly is configured for operation within variable, predetermined ranges.

Consider **claim 48**, Nowlin discloses a computer data signal embodied in a carrier wave for interfacing remote computing devices with data exchange infrastructure devices comprising: computer-executable instructions for seeking a protocol announcing the presence of one or more data exchange infrastructure devices computer-executable instructions for detecting said protocol; and computer-executable instructions for establishing two-way data exchange communication with said at least

one of said one or more data exchange infrastructure devices (see figs. 2,3,5; [0021,0022;0030-0033;0041-0043]).

Consider **claim 56**, Nowlin discloses a computer-readable media storing computer-executable instructions for interfacing remote computing devices with data exchange infrastructure devices comprising: computer-executable instructions for seeking a protocol announcing the presence of one or more data exchange infrastructure devices; computer-executable instructions for detecting said protocol; and computer-executable instructions for establishing two-way data exchange communication with said at least one of said one or more data exchange infrastructure devices (see figs. 2,3,5; [0021,0022;0030-0033;0041-0043]).

Consider **claim 64**, Nowlin discloses a computer program embodied on a computer-readable media for interfacing remote computing devices with data exchange infrastructure devices comprising: a code segment for seeking a protocol announcing the presence of one or more data exchange infrastructure devices; a code segment for detecting said protocol; and a code segment for establishing two-way data exchange communication with said at least one of said one or more data exchange infrastructure devices (see figs. 2,3,5; [0021,0022;0030-0033;0041-0043]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2-5, 8-11, 15-17, 20-23, 25-27, 32-35, 49-51, 53-55, 57-59, 61-63, 65-67, and 69-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Nowlin et al. (USPN 2003/0092437)**.

Consider **claims 2, 15, 25, 49, 57, and 65** as applied to respective claims, Nowlin discloses Bluetooth but does not explicitly disclose a security arrangement to enhance data security.

However, the Examiner takes Official Notice that it is notoriously well known in the art of wireless communications that Bluetooth discloses data security, encryption, and authentication.

Consider **claims 3, 16, 26, 50, 58, and 66** as applied to respective claims, Nowlin discloses Bluetooth but does not explicitly disclose a data encrypting and decrypting arrangement.

However, the Examiner takes Official Notice that it is notoriously well known in the art of wireless communications that Bluetooth discloses data security, encryption, and authentication.

Consider **claims 4, 17, 27, 51, 59, and 67** as applied to respective claims, Nowlin discloses Bluetooth but does not explicitly disclose a data verification arrangement.

However, the Examiner takes Official Notice that it is notoriously well known in the art of wireless communications that Bluetooth discloses data security, encryption, and authentication.

Consider **claim 5** as applied to respective claims, remote data processing and storage device is configured to reject any incoming connection and to thereby initiate all data connections for data exchange.

However, the Examiner takes Official Notice that it is notoriously well known in the art of wireless communications that Bluetooth discloses data security, encryption, and authentication.

Consider **claim 8** as applied to respective claims, Nowlin discloses Bluetooth but does not explicitly disclose remote data processing and storage device is configured to recognize predetermined data stream structures and encode the data stream for more efficient transmission.

However, the Examiner takes Official Notice that it is notoriously well known in the art of wireless communications that Bluetooth discloses data security, encryption, encoding, and authentication.

Consider **claims 9, 20, 32, 53, 61, and 69** as applied to respective claims, Nowlin discloses Bluetooth but does not explicitly disclose remote data processing and storage device interacts with a programmable channel in a data exchange infrastructure device to encode the data stream for more efficient transmission.

However, the Examiner takes Official Notice that it is notoriously well known in the art of wireless communications that Bluetooth discloses a programmable channel.

Consider **claims 10, 21, 34, 54, 62, and 70** as applied to respective claims, Nowlin discloses Bluetooth but does not explicitly disclose remote data processing and storage device is configured to define an execution environment to prevent access to any remote data processing and storage device resources except the data exchange stream and a predetermined amount of storage space.

In the related field of endeavor, Mangalik discloses remote data processing and storage device is configured to define an execution environment to prevent access to any remote data processing and storage device resources except the data exchange

stream and a predetermined amount of storage space (see abstract; figs. 3-10 and associated text).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Nowlin with the teachings of Mangalik in order to securely provide access to private information.

Consider **claims 11, 23, 35, 55, 63, and 71** as applied to respective claims, Nowlin discloses Bluetooth but does not explicitly disclose remote data processing and storage device is configured to insure that any received input information originated with an intended data exchange infrastructure device.

However, the Examiner takes Official Notice that it is notoriously well known in the art of wireless communications that Bluetooth discloses communicating data using slave and master identifiers to identify source data origination.

Conclusion

Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Fayyaz Alam whose telephone number is (571) 270-1102. The Examiner can normally be reached on Monday-Friday from 9:30am to 7:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Edward Urban can be reached on (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Fayyaz Alam

September 17, 2008

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/Edward Urban/

Supervisory Patent Examiner, Art Unit 2618